IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.74 OF 1996

The Commissioner of Income-tax,
Kolhapur .. Applicant.
V/s.
Yeshwant S.S.K. Ltd., Solapur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred the following questions for the opinion of this Court reading as under :-

> 1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in treating the refundable deposits as loans and not as income ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding in respect of various funds like Chief Minister's fund, Y.B. Minister's relief fund, hutment fund, small savings, etc. that the assessee acted as an agent and collections were made as per the directions of the State Government. For spending them on the purposes specified by the State Governmet and that the collections were made by way of retaining amount of cane price payable to the sugarcane growers and hence are not trading receipt liable to tax ?

2. Both the questions are already covered by the

judgment of the Apex Court in the case of **Siddheshwar Sahakari Sakhar Karkhana Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)].**

3. In this view of the judgment, question No.1 is answered in affirmative as also question No.2 except with respect to cane development fund. So far as the issue relating to the cane development fund is concerned, the matter is remanded back to the Tribunal for consideration afresh in the light of the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. referred to hereinabove. As such the said issue stands remanded back to the Tribunal for consideration afresh.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)